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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

BY

10 IN THE UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE

13 HEATHER L. STODDARD,

14 Plaintiff,

15 v
16 THE CITY OF SEATTLE,
a municipal corporation,

17 and

18 JOHN DOE I, in his capacity as a
19 police officer for the City of Seattle,
20 and as an individual,

21 and

22 JOHN DOE II, in his capacity as a
23 police officer for the City of Seattle,
24 and as an individual,

25 Defendants

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NO. COMPLAINT FOR DAMAGES

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27 COMPLAINT FOR DAMAGES - 1
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MUENSTER & KOENIG
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INTRODUCTION

1 This is a civil action seeking damages against the above-named defendants
The civil claims include a common law tort cause of action, statutory causes of action, and
offenses committed under color of law resulting in a deprivation of rights secured by the
Constitution and Laws of the United States of America

JURISDICTION AND VENUE

2 This Court has personal and subject matter jurisdiction over plaintiff's
federal civil rights claims under Title 42, United States Code, § 1983, and Title 28, United
States Code, §§ 1331 and 1333(a)(3).

3 This Court has pendent jurisdiction over plaintiff's state law claim and over defendants as to said claim, pursuant to Title 28, United States Code, § 1337 (Judicial Improvements Act of 1990), Public Law No. 101-650, 104 Stat. 5089 (1990).

4 The acts and omissions complained of herein occurred in King County,
Washington, and the defendants are residents and citizens of the state of Washington

5 Plaintiff is a resident and citizen of the state of Washington

6 Venue in this Court is proper pursuant to Title 28, United States Code, §
1391

PARTIES

7 Plaintiff Heather L Stoddard is a citizen of the United States and a citizen
and resident of the state of Washington Defendant City of Seattle is sued directly under
Title 42, United States Code, § 1983 as to the federal causes of action, and under the
doctrine of *respondeat superior* as to the state law cause of action

8 At all times material to this complaint, defendant John Doe I was a police officer employed by defendant City of Seattle At all times material to this complaint, defendant John Doe I was an agent and employee of defendant City of Seattle, and was acting within the scope of his employment with the City of Seattle, under color of the laws of the State of Washington

9 Defendant John Doe I is sued in his individual capacity and in his official capacity as an agent and employee of the City of Seattle

10 At all times material to this complaint, defendant John Doe II was a police officer employed by defendant City of Seattle. At all times material to this complaint, defendant John Doe II was an agent and employee of defendant City of Seattle, and was acting within the scope of his employment with the City of Seattle, under color of the laws of the State of Washington.

11 Defendant John Doe II is sued in his individual capacity and in his official capacity as an agent and employee of the City of Seattle

FACTUAL ALLEGATIONS

12 During the week of November 29-December 3, 1999, the World Trade Organization (WTO) held meetings in downtown Seattle

13. Thousands of people gathered in the streets of Seattle to peacefully protest the policies of the WTO, contending that such policies are in conflict with American laws protecting the environment, labor, and human rights

14 During the WTO week, police tear-gassed, pepper-sprayed and/or arrested numerous peaceful protestors, innocent bystanders, and members of the media

15 On November 30, 1999, defendant City of Seattle sent officers of the Seattle police department to the Capitol Hill area of Seattle. The officers patrolled the streets, dressed in riot gear.

16 Defendant City of Seattle provided its police officers with what is believed
to be pepper spray to use against citizens in the Capitol Hill Seattle area

17 Pepper spray is a dangerous chemical weapon

18 At approximately 9:00 p.m. in the evening on November 30, 1999, plaintiff Heather Stoddard, a resident of Capitol Hill, walked north on Broadway Avenue to the southwest corner of Broadway and Republican. A line of Seattle police officers in riot gear blocked the street.

19 Plaintiff asked one of the officers to tell her why they were in her neighborhood Plaintiff was unarmed and posed no threat to the officers

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2 20. In response to plaintiff's question, and without warning, defendant John
3 Doe I hit plaintiff hard in the stomach with a billy club and fired a chemical spray,
4 believed to be pepper spray, at plaintiff's left eye

5 21 Plaintiff experienced immediate, intense pain She crossed the street to the
6 southeast corner of Broadway and Republican, holding her left eye.
7

8 22 Plaintiff asked another group of officers to please let her speak to the officer
9 in charge. No verbal response was given Without warning, defendant John Doe II fired
10 chemical spray, believed to be pepper spray, at plaintiff's right eye. Plaintiff collapsed
11 from the pain and was helped by bystanders on the street. Plaintiff subsequently received
12 telephone medical assistance from Harborview Medical Center and poison control
13

14 23 Neither defendants John Doe I and II nor any of the other police officers
15 present provided or attempted to provide any first aid to plaintiff

16 24 Defendant City of Seattle failed to properly supervise defendants John Doe
17 I and II
18

19 25 Defendant City of Seattle failed to train defendants John Doe I and II not
20 to fire chemical weapons at an unarmed person who merely asked questions of the officers
21

22 26 Defendant City of Seattle failed to provide its officers deployed on
23 December 1, 1999, with adequate food, water and opportunities for rest
24

25 27 As a result of the acts and omissions of defendants, plaintiff suffered
26 personal injuries including, but not limited to, bodily injury, pain and suffering, emotional
distress, and other consequential damages
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FIRST CAUSE OF ACTION
VIOLATION OF THE FIRST AMENDMENT

28 Plaintiff hereby incorporates and realleges as if fully set forth herein each
and every allegation of paragraphs 1 through 27

29 The acts and omissions of defendants herein were done under color of state
law, custom or usage

30 Plaintiff Heather Stoddard had a federally-protected right, under the freedom of speech and assembly provisions of the First Amendment to the United States Constitution, to be present in her Capitol Hill neighborhood and to ask the referenced question and to ask to speak with a police supervisor during the WTO-related protests and gatherings

31 The acts and omissions of defendants herein proximately caused the
deprivation of the First Amendment rights of plaintiff

32 As a proximate result of the acts and omissions of defendants and
deprivation of plaintiff's First Amendment rights, plaintiff suffered personal injuries as set
forth hereinabove.

SECOND CAUSE OF ACTION:
VIOLATION OF THE FOURTH AMENDMENT PROHIBITION
AGAINST UNREASONABLE SEIZURES

33 Plaintiff hereby incorporates and realleges as if fully set forth herein each
and every allegation of paragraphs 1 through 32.

34 The acts and omissions of defendants herein were done under color of state
law, custom or usage

35 Heather Stoddard was seized, for purposes of the Fourth Amendment to the
United States Constitution, by the acts and omissions of defendants set forth herein

36 Heather Stoddard had a federally-protected right, under the Fourth Amendment, not to be subjected to an unreasonable seizure

37 The acts and omissions of defendants herein proximately caused the
deprivation of the Fourth Amendment rights of Heather Stoddard

38 As a proximate result of the acts and omissions of defendants and
deprivation of plaintiff's Fourth Amendment rights, plaintiff suffered personal injuries as
set forth hereinabove

THIRD CAUSE OF ACTION
VIOLATION OF FOURTH AMENDMENT
PROHIBITION AGAINST THE USE OF UNREASONABLE FORCE

39 Plaintiff hereby incorporates and realleges as if fully set forth herein each
and every allegation of paragraphs 1 through 38

1
2 40 The acts and omissions of defendants herein were done under color of state
3 law, custom or usage

4 41 Heather Stoddard was seized, for purposes of the Fourth Amendment to the
5 United States Constitution, by the acts and omissions of defendants set forth herein

6 42 Heather Stoddard had a federally-protected right, under the Fourth
7 Amendment, not to be subjected to the use of unreasonable force against her person

8 43. As a proximate result of the acts and omissions of defendants and the
9 deprivation of plaintiff's Fourth Amendment rights, plaintiff suffered personal injuries as
10 set forth hereinabove

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13 FOURTH CAUSE OF ACTION
14 VIOLATION OF THE FOURTEENTH
15 AMENDMENT DUE PROCESS CLAUSE

16 44 Plaintiff hereby incorporates and realleges as if fully set forth herein each
17 and every allegation of paragraphs 1 through 43.

18 45 The acts and omissions of defendants herein were performed under color
19 of state law, custom or usage

20
21 46 Heather Stoddard had federally-protected rights, under the Due Process
22 Clause of the Fourteenth Amendment to the United States Constitution, to remain in a
23 public place of her choice and the right to move from one place to another, in order to
24 observe the actions of the police and the citizens in her Capitol Hill neighborhood

47 The acts and omissions of defendants herein proximately caused the
deprivation of plaintiff's Fourteenth Amendment rights

48. As a proximate result of the acts and omissions of defendants, plaintiff suffered personal injuries as set forth hereinabove.

FIFTH CAUSE OF ACTION
MUNICIPAL LIABILITY OF THE CITY OF SEATTLE

49 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 48.

50 At all times material herein, defendant City of Seattle, by and through its chief of police, Norman Stamper, had in effect certain explicit and *de facto* policies, practices and customs which were applied to the treatment of civilians in Seattle during the WTO meetings, including the use of chemical weapons against innocent civilians such as plaintiff Heather Stoddard

51 For purposes of the incident described herein, it was the policy, custom and practice of the City of Seattle to utilize unreasonable force in violation of the First, Fourth and Fourteenth Amendment rights of the plaintiff, set forth hereinabove

52. It was further the policy of the City of Seattle, by and through its chief of police, to approve, acquiesce, condone and ratify the use of unreasonable force in violation of the First, Fourth and Fourteenth Amendment rights of the plaintiff in the incident described hereinabove.

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2 53 For purposes of liability for said policies, practices and/or customs, Norman
3 Stamper was the authorized policy-maker on police matters, and his decisions, explicit and
4 *de facto*, were and are binding on defendant City of Seattle

5 54 The policy, practice and custom of approving, acquiescing in, condoning
6 and/or ratifying the use of unreasonable force in violation of the First, Fourth and
7 Fourteenth Amendment rights of the plaintiff in the incident described herein was a
8 deliberate choice by defendant City of Seattle, by and through its chief of police

9
10 55 These policies, practices and customs were maintained with deliberate,
11 reckless and/or callous indifference to the constitutional rights of the plaintiff as set forth
12 hereinabove

13
14 56 The above-described policies, practices and customs of defendant City of
15 Seattle proximately caused the deprivation of the First, Fourth and Fourteenth Amendment
16 rights of the plaintiff

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18 57 As a proximate result of the above-described policies, practices and customs
19 of defendant City of Seattle, and as a result of the deprivation of plaintiff's First, Fourth
20 and Fourteenth Amendment rights, plaintiff suffered personal injuries as set forth
21 hereinabove

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23 58 At all times material herein, defendant City of Seattle had a duty, under the
24 United States Constitution, to properly supervise its police officers.

59 At all times material herein, defendant City of Seattle had a duty, under the
Fourth Amendment to the United States Constitution, to train its police officers not to
attack innocent civilians with chemical weapons, including pepper spray

60 Defendant City of Seattle failed to properly supervise defendants John Joe
I and II

61 Defendant City of Seattle failed to properly train defendants John Doe I and

62 The above-described failures to supervise and to train were maintained with deliberate, reckless and/or callous indifference to the constitutional rights of the plaintiff as set forth hereinabove

63 The above-described failures by defendant City of Seattle to properly supervise and to properly train defendants John Doe I and II proximately caused the deprivation of the constitutional rights of the plaintiff as set forth hereinabove

64 As a proximate result of the failure of defendant City of Seattle to properly supervise and train, and as a result of the deprivation of plaintiff's constitutional rights, plaintiff suffered personal injuries as set forth hereinabove.

SIXTH CAUSE OF ACTION
NEGLIGENCE

65 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 64.

66 Defendants had a general affirmative duty toward the public, and had a special affirmative duty toward the plaintiffs to refrain from causing injury to plaintiff Heather Stoddard, in accordance with the applicable standard of care required of police and other law enforcement officers

67 The acts and/or omissions of defendants, and each of them, were a breach of the duty of care defendants, and each of them, owed to the plaintiff Heather Stoddard

68 Defendant City of Seattle is liable for the actions of defendants John Doe I and II under the doctrine of *respondent superior*

69 As a direct, proximate and foreseeable result of the wrongful actions described hereinabove, plaintiff has been damaged in an amount in excess of the minimum jurisdiction of this Court

PUNITIVE DAMAGES

70 Plaintiff hereby incorporates and realleges as if fully set forth herein each and every allegation of paragraphs 1 through 68

71 The acts and omissions of defendants John Doe I and II herein were motivated by evil motive or intent, or involved reckless or callous indifference to the constitutional rights of the plaintiff as set forth hereinabove.

72 Defendant City of Seattle should indemnify defendants John Doe I and II
for any damages awarded against him/them at the trial of this action, including punitive
damages

73. Defendant City of Seattle is responsible for the fault of the defendants John Doe I and II because defendants John Doe I and II were acting as agents or servants of the City. Defendant City of Seattle is liable for all damages awarded against defendants John Doe I and II, including punitive damages RCW 422-070(1)(a)

74 Since plaintiff Heather Stoddard is a fault-free plaintiff, defendant City of
Seattle is jointly and severally liable for all damages awarded, including punitive damages
RCW 4.22.070(1)(b)

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for relief as follows:

Compensatory Damages: The defendants should be required to pay compensatory damages in an amount to be proven at trial

Punitive Damages: The defendants should be required to pay punitive damages in an amount to be proven at trial pursuant to Title 42, United States Code, § 1988, RCW 42.22.070(1)(a), and RCW 42.22.070(1)(b).

Attorneys' Fees The defendants should be required to pay the plaintiff's reasonable attorneys' fees and costs pursuant to Title 42, United States Code, § 1988

Other Relief The Court should grant the plaintiff such other and further relief as the Court deems just and equitable

DATED this the 10th day of November, 2002

Respectfully submitted,

MUENSTER & KOENIG

By: 
JOHN R. MUENSTER
WSBA No. 6237
Attorney at Law

Of Attorneys for Plaintiff Heather Stoddard

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